



State of New Hampshire
DEPARTMENT OF ENVIRONMENTAL SERVICES

6 Hazen Drive, P.O. Box 95, Concord, NH 03302-0095
(603) 271-2900 FAX (603) 271-2456



November 19, 2003

**Certified Mail
Return Receipt Requested**

**Letter of Deficiency
No. WMD 03-37**

Paul Beroney d/b/a
Beroney's Auto Body
130-A Wright Street
Berlin, NH 03570

Re: HWC 03-037; 130-A Wright Street, Berlin, NH

Dear Mr. Beroney:

On October 27, 2003, and November 4, 2003, the Department of Environmental Services, Waste Management Division ("DES") conducted an inspection of Beroney's Auto Body ("Beroney") located at 130-A Wright Street, Berlin, NH ("Site") and spoke with the Site owner Paul Beroney. The purpose of the inspection was to determine Beroney's compliance status with RSA 147-A, RSA 149-M and rules adopted pursuant thereto relative to the proper management of hazardous waste and solid waste.

During the October 27, 2003 inspection, DES personnel observed or learned the following:

1. Beroney's is a notified generator at 177 Glenn Avenue, Berlin, NH; NHD510096506. Beroney's no longer operates a business at this location and has not declassified the company's generator EPA identification number.
2. C&S Vending, A&D Excavating, and GM's Tire & Alignment, Inc. picked up used oil generated at the Site to burn in waste oil burners. These companies have not notified DES as used oil burners or registered as hazardous waste transporters.
3. Beroney's does not have receipts for used oil removed from the Site. Bills of lading were not used to transport used oil from the Site.
4. Used oil drums are not sealed or labeled
5. A rainbow sheen was noted on several puddles in the vehicle crushing area as well as several areas of stained soil. DES personnel advised Mr. Beroney to obtain spill pads and place them in the puddles to absorb the petroleum product.
6. Beroney's received scrap wire from a local mill
7. Approximately 400 tires are stored at the rear of the building.

During the November 4, 2003 inspection, DES personnel observed or learned the following:

- 1 The used oil drums still were not labeled or sealed
2. Approximately 300 tires have been removed from the Site.
3. The rainbow sheen on the puddles has been picked up using spill pads.
4. Stained soil has been scraped up and placed in the junk vehicles on Site.
5. DES personnel issued a Report of Initial Complaint Investigation ("Report") to Mr. Beroney. The Report advised Mr. Beroney to cease operating an unpermitted solid waste facility; remove petroleum contaminated soil to a permitted waste disposal facility; seal all used oil containers; label all used oil containers; seal all active floor drains; provide used oil only to notified used oil burners; either self transport used oil or use a registered New Hampshire hazardous waste transporter; use a bill of lading for used oil shipments and retain copies for three years; declassify Beroney's former location at 177 Glen Ave, Berlin, NH; and store tires in accordance with the New Hampshire Solid Waste Rules ("Solid Waste Rules") or remove tires to a permitted facility.

This letter serves to inform you that the above referenced Site conditions constitute violations of RSA 147-A (Hazardous Waste Statute), RSA 149-M (Solid Waste Statute), the Solid Waste Rules, and the Hazardous Waste Rules specifically:

RSA 149-M:9, I	Operating an unpermitted solid waste facility.
Env-Wm 504.02(f)	Failure to notify DES after ceasing hazardous waste activities at a particular site.
Env-Wm 513.02	Failure to immediately contain and clean up a discharge of hazardous waste or any discharge of material which, when discharged becomes a hazardous waste. Specifically waste hydraulic oil and waste motor oil.
Env-Wm 807.06(b)(4)	Failure to label containers of used oil with the words "Used Oil for Recycle".
Env-Wm 807.06(b)(5)	Failure to seal containers of used oil.
Env-Wm 807.06(b)(6)	Failure to prevent spillage or a discharge of used oil onto the land.
Env-Wm 807.06(b)(11)	Failure to deliver used oil to a facility authorized to accept used oil or burn used oil.
Env-Wm 807.06(b)(12)	Failure to use a registered hazardous waste transporter to transport used oil.
Env-Wm 807.06(b)(12)	Failure to use a bill of lading.

Env-Wm 2605.02

Failure to store tires in accordance with the Solid Waste Rules.

DES believes that the cited deficiencies can be corrected by completing the following requested remedial actions within the time indicated:

- Immediately** ensure that Beroney's does not accept solid waste at the Site.
2. **By December 8, 2003**, submit a declassification request to DES, Reporting Information Management Section, for the former location at 177 Glen Ave., Berlin, NH.
 3. **Immediately** ensure that all containers of used oil are labeled with the words "Used Oil for Recycle".
 4. **Immediately** ensure that all containers of used oil are sealed.
 5. **Immediately** ensure that used is managed in a manner to prevent spillage.
 6. **Immediately** ensure that used oil is delivered to an authorized facility or used oil burner.
 7. **Immediately** ensure that used oil is transported to an authorized facility using a registered hazardous waste transporter. Used oil may also be self-transported in accordance with Env-Wm 807.07(a).
 8. **Immediately** ensure that used oil is transported to an authorized facility using a bill of lading and that bills of lading are kept for three years.
 9. **By December 15, 2003**, remove all scrap tires at the Site to an authorized facility or store the tires in accordance with Env-Wm 2605.02.
 10. **By December 22**, submit to DES written confirmation that these steps have been completed, including **copies of all disposal receipts**, at the address below.

Please address all correspondence and reports regarding this matter to:

Michael Galuszka, Waste Management Specialist
Department of Environmental Services
80 Glen Road
Gorham, NH 03581
Fax: (603) 466-5148

In the event compliance is not achieved within the time period indicated above, DES may initiate formal enforcement action against you, including issuing an order requiring the deficiencies to be corrected and/or referring the matter to the New Hampshire Department of Justice for imposition of civil and/or criminal penalties. DES reserves the right to pursue administrative fines for the violation(s) noted above.

Your prompt cooperation is appreciated. Please contact Michael Galuszka at (603) 466-5389 if you have any questions or need further assistance.

Sincerely,

A handwritten signature in black ink, which appears to read "Kenneth W. Marschner", is written over the word "COPY" in large, bold, black capital letters.

Kenneth W. Marschner
Administrator
Waste Management Programs

Certified Mail RRR#: 7000 1670 0000 0584 3724

CC: DB/File/Town
Frederick McGarry, Acting Director, WMD
Gretchen Rule, DES Legal Unit
City Clerk, Berlin, NH

Enclosures: Env-Wm 2605.02, declassification form, sample bill of lading, Env-Wm 807